

**REMARKS**

A review of the claims indicates that:

A) Claims 12, 15—18, 22—26, 32, 33, 35 and 36 remain in their original form.

B) Claims 1—11, 13, 19, 21, 27, 28, 30, 31 and 34 are currently amended.

C) Claims 14, 20 and 29 are currently cancelled.

In view of the following remarks, Applicant respectfully requests reconsideration of the rejected claims and withdrawal of the rejections.

**35 U.S.C. §101**

The specification and Claims 1—10 and 27—30 have been amended to address the Examiner's objections. It is believed that the Section 101 issues have been resolved. If not, please feel free to call so that we may resolve the matter.

**Traversal of the §103 Rejections**

Claim 19 was amended to recite the elements of Claim 20. Accordingly, Claim 19 assumes the exact scope of Claim 20.

Claim 20 was rejected under §103 as being unpatentable over McManis in view of "Choy" U.S. Patent No. 6,141,754.

In view of the rejection, the Applicant will address the theories by which both Claims 19 and 20 were rejected in discussion the rejection of Claim 19, as amended.

**Claim 19** recites a code-executing device, comprising:

- first and second runtime areas with a secure communication channel between them;

- a protected service configured to receive a request from an application for execution of the protected service within the first runtime area; and
- a metering engine, configured to receive the request and to operate within the second runtime area and to return **an allowance code or a rejection code in response to the request by applying rules to meter data**, wherein the metering engine comprises:
  - an enforcement engine, configured for secure communication with the protected service;
  - a service contract, configured to supply the rules governing operation of the protected service, to the enforcement engine; and
  - a secure store, within which the meter data is contained, wherein the secure store is configured to supply, to the enforcement engine, **historical data reflecting past operation of the protected service**.

Claim 19 recites, returning “an allowance code or a rejection code in response to the request by applying rules to meter data”. The Office suggested that McManis discloses such an application; however, the Applicant respectfully submits that McManis fails to disclose application of rules to meter data.

McManis teaches a verifier (112 in Fig. 1 and discussion in column 1, lines 1—10). The verifier will allow and/or deny use of the program module based on recognition of corruption of the installation or transmission (column 5, lines 12—16). No “applying rules to meter data” is taught or suggested.

The Patent Office suggests that the verifier 112 and verifier call 130 and response 132 teach “applying rules to meter data”. The Applicant respectfully disagrees.

McManis appears to check only the integrity of the program module. For example, at column 4 lines 1—8, McManis teaches that the module “B” is authenticated. However, McManis does not teach or suggest applying any rules to meter data. Instead, McManis appears to teach only discovery of the

1 “authenticity” of the module B, which may have been corrupted by installation  
2 and/or transmission (column 5, lines 12—16).

3 Although the Office did not cite the Choy in rejecting Claim 19, the  
4 Applicant submits that Choy does not teach or suggest, “applying rules to meter  
5 data” as recited by Claim 19. Referring to Choy at column 6, lines 10—18, Choy  
6 teaches the use of metadata (data about data), but does not teach or suggest  
7 application or rules to meter data.

8 Accordingly, the Applicant respectfully submits that Claim 19 recites  
9 elements not taught or suggested by the prior art of record, and respectfully  
10 requests that the rejection be removed.

11 Claim 19 recites, a secure data store comprising “historical data reflecting  
12 past operation of the protected service”. The Office suggested that Choy discloses  
13 such historical data; however, the Applicant respectfully submits that Choy fails to  
14 disclose the use of historical data reflecting past operation of the protected service.

15 The Choy reference teaches the use of the “protection specification” at  
16 column 5, lines 30—46. The protection specification can convey privilege to an  
17 access control list (ACL) or to a specific user. The protection specification does  
18 not appear to record and/or include historical data based on past operation of the  
19 protected service.

20 Choy also teaches that the protection specification can comprise metadata  
21 (see column 6, lines 10—15). However, the metadata does not indicate “past  
22 operation of the protected service”. Instead, the metadata appears to relate to  
23 management of an access control list (ACL) (column 5, lines 45—60).

1 In rejecting Claim 20, the Patent Office points to Choy at column 6, lines  
2 32—39, and suggests that Choy teaches the use of historical data on past operation  
3 of the protected service. The Applicant respectfully submits that column 6, lines  
4 32—39 fails to teach or suggest any aspects of historical data.

5 Turning to column 6, lines 32—39, Choy teaches that the protection  
6 specification can be stored in a number of ways, such as metadata, a database,  
7 another file or object. Choy teaches that the relationship record relates the  
8 protection specification to the information entity.

9 However, Choy does not teach or suggest aspects of historical use of the  
10 protected service. Instead, the discussion is related to how the information is  
11 stored, e.g. as metadata or in a database.

12 Thus, the Applicant respectfully submits that McManis and Choy fail to  
13 render obvious Claim 19, as amended to recite elements from Claim 20. The  
14 Applicant respectfully requests that the rejection to Claim 19 be removed.

15 **Claims 21—26** depend from Claim 19 and are allowable due to their  
16 dependence from an allowable base claim. These claims are also allowable for  
17 their own recited features that, in combination with those recited in Claim 19, are  
18 not disclosed by reference of record.

19 **Claim 21** is also allowable for the reasons seen below, which are  
20 incorporated herein. In particular, the aspects of “updating” are not disclosed by  
21 McManis, and no particular citation within McManis is provided. The Applicant  
22 respectfully submits that, without clarification, McManis is deficient to support the  
23 rejection of Claim 21.

### Traversal of the §102 Rejections

Claims 1—4, 7—12, 14, 16—19, 21, 25—28, 31—33 and 35 were rejected under §102 as being anticipated by U.S. Patent No. 5,970,145, hereinafter “McManis.” In response, the Applicant respectfully traverses the rejection.

In response, the Applicant has amended independent Claims 1, 11, 27 and 31 in a manner similar to Claim 19. Accordingly, the Applicant will address the rejections of these claims with respect to both the McManis and Choy references.

**Claim 1** recites a computer readable medium, comprising instructions for metering execution of code, the instructions comprising:

- receiving, at a protected service, a call from an application asking for execution of the protected service within a first runtime area;
- requesting permission for the execution, wherein the request is made by the protected service to a metering engine operating in a second runtime area, wherein the request is made through a secure transmission layer; and
- analyzing the request, at the metering engine, wherein the analyzing comprises.
  - referencing, within the metering engine, a service contract comprising rules governing operation of the protected service;
  - referencing, within the metering engine, a secure store of meter data, wherein the meter data comprises historical data reflecting past operation of the protected service;
  - using the rules and the meter data to decide the requested permission; and
  - updating the metering data to reflect the analysis.

Claim 1 has been amended to recite use of “rules and meter data” to decide the permission, as well as “historical data reflecting past operation of the protected service”. Accordingly, the Applicant submits that Claim 1 is allowable for at least the reasons that Claim 19 is allowable, and the remarks above are incorporated by reference herein. In particular, the Applicant respectfully submits that McManis and Choy do not teach or suggest elements recited by Claim 1, as amended.

1        Claim 1 additionally recites, “updating the metering data to reflect the  
2 analysis”. This was originally recited in Claim 13, which has been amended to  
3 reflect promotion of this material into the independent claims. Claim 13 was  
4 rejected as obvious over McManis in view of Choy.

5        The Applicant submits that McManis and Choy fail to teach or suggest this  
6 element, as recited. Referring to McManis, McManis teaches verifying the  
7 authenticity of a procedure (e.g. column 2, lines 27—40), but does not teach  
8 updating meter data. In particular, McManis is interested in whether the procedure  
9 is “authentic” (column 4, lines 1—8), and this is determined at each call, and does  
10 not result in any “updating of meter data”, as recited.

11        Referring to Choy, Choy teaches the use of metadata (column 6, lines 10—  
12 20). However, updating the metadata to reflect an analysis is not taught.

13        The Office, in making out the rejection of Claim 21—which recited  
14 “updating the secure store of meter data to reflect the analysis”, the Office failed  
15 to cite any particular location in McManis which disclosed this element. The  
16 Applicant respectfully submits that McManis is deficient to support the rejection,  
17 and respectfully requests that the rejection of Claim 1 be removed.

18        **Claims 2—10** depend from Claim 1 and are allowable due to their  
19 dependence from an allowable base claim. These claims are also allowable for  
20 their own recited features that, in combination with those recited in Claim 1, are  
21 not disclosed by reference of record.

22  
23        **Claim 11** recites a processor-readable medium comprising processor-  
24 executable instructions for metering execution of code, the processor-executable  
25 instructions comprising instructions for:

- receiving, at a protected service, a call from an application asking for execution of the protected service;
- requesting authorization to execute the protected service, wherein the authorization request is made from the protected service to a metering engine through a secure transmission layer; and
- analyzing, with the metering engine, a contract in view of meter data to determine if the authorization request to use the protected service by the application should be allowed, wherein the analyzing comprises:
  - referencing, within the metering engine, the contract, wherein the contract comprises rules governing operation of the protected service;
  - **referencing, within the metering engine, a secure store of meter data, wherein the meter data comprises historical data reflecting past operation of the protected service;**
  - **using the rules and the meter data to decide the requested authorization; and**
  - **updating the metering data to reflect the analysis.**

Claim 11 is allowable for at least the reasons that Claims 1, 19 and 21 are allowable, and the remarks from above are incorporated herein by reference.

**Claims 12—18** depend from Claim 11 and are allowable due to their dependence from an allowable base claim. These claims are also allowable for their own recited features that, in combination with those recited in Claim 11, are not disclosed by reference of record.

**Claim 27** recites a computer readable medium comprising instructions managed code environment, comprising:

- an application configured to consume services from a library of protected services;
- a protected service, within the library of protected services, configured to receive a request from the application for execution; and
- a metering engine, configured to return of an allowance code or a rejection code to the request based on rules governing operation of the protected service, wherein the metering engine comprises:
  - an enforcement engine, configured for secure communication with the protected service.

- a service contract, configured to **supply the rules governing operation of the protected service, to the enforcement engine.**
- a secure store, within which the meter data is contained, wherein the secure store is configured to supply, **to the enforcement engine, historical data reflecting past operation of the protected service.**

Claim 27 is allowable for at least the reasons that Claims 1, 11, 19 and 21 are allowable, and the remarks from above are incorporated herein by reference.

**Claims 28—30** depend from Claim 27 and are allowable due to their dependence from an allowable base claim. These claims are also allowable for their own recited features that, in combination with those recited in Claim 27, are not disclosed by reference of record.

**Claim 31** recites a code-executing device for metering execution of code, the code-executing device comprising:

- means for calling a protected service from an application;
- means for calling a metering engine from the protected service; and
- means for analyzing a contract to determine whether to allow or prohibit use of the protected service by the application, wherein the analyzing comprises:
  - referencing, within the metering engine, **a service contract comprising rules governing operation of the protected service;**
  - referencing, within the metering engine, **a secure store of meter data, wherein the meter data comprises historical data reflecting past operation of the protected service;**
  - using the rules and the meter data to decide the requested permission; and
  - **updating the metering data to reflect the analysis.**

Claim 31 is allowable for at least the reasons that Claims 1, 11, 19, 21 and 27 are allowable, and the remarks from above are incorporated herein by reference.



1       **Claims 32—36** depend from Claim 31 and are allowable due to their  
2 dependence from an allowable base claim. These claims are also allowable for  
3 their own recited features that, in combination with those recited in Claim 31, are  
4 not disclosed by reference of record.

5       **Conclusion**

6       The Applicant submits that all of the claims are in condition for allowance  
7 and respectfully requests that a Notice of Allowability be issued. If the Office's  
8 next anticipated action is not the issuance of a Notice of Allowability, the  
9 Applicant respectfully requests that the undersigned attorney be contacted for the  
10 purpose of scheduling an interview.

11       Respectfully Submitted,

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14       Dated: 1-18-08

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